

Union Calendar No. 302

110TH CONGRESS
1ST SESSION

H. R. 2537

[Report No. 110-491]

To amend the Federal Water Pollution Control Act relating to beach monitoring, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2007

Mr. PALLONE (for himself and Mr. BISHOP of New York) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

DECEMBER 12, 2007

Additional sponsors: Mr. ORTIZ, Mr. ISRAEL, Ms. BORDALLO, Mrs. CAPPS, Mrs. MCCARTHY of New York, Mr. SAXTON, Mr. MEEKS of New York, Mr. MCINTYRE, Mrs. LOWEY, Mr. HIGGINS, Mr. KIRK, Mr. WAXMAN, Mr. HASTINGS of Florida, Ms. SHEA-PORTER, Mr. SMITH of New Jersey, Mr. KING of New York, Mr. SERRANO, Mr. FILNER, Ms. ESHOO, Mr. SMITH of Washington, Mr. BERMAN, Mr. WEINER, Mrs. MALONEY of New York, Mr. DELAHUNT, Ms. ZOE LOFGREN of California, Ms. HARMAN, Ms. LINDA T. SÁNCHEZ of California, Mr. GEORGE MILLER of California, Mrs. CHRISTENSEN, Mr. WEXLER, Mr. ACKERMAN, Ms. LORETTA SANCHEZ of California, Ms. DELAURO, Mr. KAGEN, Mr. KLEIN of Florida, Ms. SCHAKOWSKY, Mr. SESTAK, and Mr. ROTHMAN

DECEMBER 12, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 24, 2007]

A BILL

To amend the Federal Water Pollution Control Act relating to beach monitoring, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Beach Protection Act*
5 *of 2007”.*

6 **SEC. 2. WATER POLLUTION SOURCE IDENTIFICATION.**

7 *(a) SOURCE TRACKING.—Section 406(b) of the Federal*
8 *Water Pollution Control Act (33 U.S.C. 1346) is amend-*
9 *ed—*

10 *(1) by redesignating paragraphs (3) and (4) as*
11 *paragraphs (4) and (5), respectively; and*

12 *(2) by inserting after paragraph (2) the fol-*
13 *lowing:*

14 *“(3) SOURCE IDENTIFICATION PROGRAMS.—In*
15 *carrying out a monitoring and notification program,*
16 *a State or local government may develop and imple-*
17 *ment a coastal recreation waters pollution source*
18 *identification and tracking program for coastal recre-*
19 *ation waters adjacent to beaches or similar points of*

1 access that are used by the public and are not meeting
2 applicable water quality standards for pathogens and
3 pathogen indicators.”.

4 (b) *AUTHORIZATION OF APPROPRIATIONS.*—Section
5 406(i) of such Act (33 U.S.C. 1346(i)) is amended by strik-
6 ing “\$30,000,000 for each of fiscal years 2001 through
7 2005” and inserting “\$40,000,000 for each of fiscal years
8 2008 through 2012”.

9 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**
10 **MENT AND COASTAL HEALTH ACT.**

11 Section 8 of the *Beaches Environmental Assessment*
12 and *Coastal Health Act of 2000* (114 Stat. 877) is amended
13 by striking “2005” and inserting “2012”.

14 **SEC. 4. STATE REPORTS.**

15 Section 406(b)(4)(A)(ii) of the *Federal Water Pollu-*
16 *tion Control Act* (as redesignated by section (2)(a)(1) of this
17 Act) is amended by inserting “and all environmental agen-
18 cies of the State with authority to prevent or treat sources
19 of pollution in coastal recreation waters” after “public”.

20 **SEC. 5. USE OF RAPID TESTING METHODS.**

21 (a) *CONTENTS OF STATE AND LOCAL GOVERNMENT*
22 *PROGRAMS.*—Section 406(c)(4)(A) of the *Federal Water*
23 *Pollution Control Act* (33 U.S.C. 1346(c)(4)(A)) is amended
24 by inserting “, including rapid testing methods,” after
25 “methods”.

1 **(b) REVISED CRITERIA.**—Section 304(a)(9) of such Act
2 (33 U.S.C. 1314(a)(9)) is amended by inserting “and rapid
3 testing methods” after “methods”.

4 **(c) CRITERIA FOR USE OF RAPID TESTING METH-**
5 **ODS.**—Not later than 270 days after the date of enactment
6 of this Act, and after providing notice and an opportunity
7 for public comment, the Administrator of the Environ-
8 mental Protection Agency shall publish criteria for the use
9 of rapid testing methods, at coastal recreation waters adja-
10 cent to beaches or similar points of access that are used
11 by the public, that will enhance the protection of public
12 health and safety through rapid public notification of any
13 exceeding of applicable water quality standards. In devel-
14 oping such criteria, the Administrator shall prioritize the
15 use of rapid testing methods at those beaches or similar
16 points of access that have the highest use by the public.

17 **(d) DEFINITION.**—Section 502 of such Act (33 U.S.C.
18 1362) is amended by adding at the end the following:

19 **“(25) RAPID TESTING METHOD.**—The term
20 ‘rapid testing method’ means a method of testing the
21 water quality of coastal recreation waters for which
22 results are available as soon as practicable and not
23 more than 6 hours after a water quality sample is re-
24 ceived by the testing facility.”.

1 **SEC. 6. NOTIFICATION OF FEDERAL, STATE, AND LOCAL**
2 **AGENCIES.**

3 *Section 406(c)(5) of the Federal Water Pollution Con-*
4 *trol Act (33 U.S.C. 1346(c)(5)) is amended—*

5 *(1) by striking “prompt communication” and*
6 *inserting “communication, within 24 hours of the re-*
7 *ceipt of the results of a water quality sample,”;*

8 *(2) in subparagraph (A)—*

9 *(A) by inserting “(i) in the case of any*
10 *State in which the Administrator is admin-*
11 *istering the program under section 402,” before*
12 *“the Administrator” the first place it appears;*
13 *and*

14 *(B) by inserting at the end the following:*

15 *“(ii) in the case of any State other than a*
16 *State to which clause (i) applies, all agencies of*
17 *the State government with authority to require*
18 *the prevention or treatment of the sources of*
19 *coastal recreation water pollution; and”;*

20 *(3) by redesignating paragraphs (6) and (7) as*
21 *paragraphs (7) and (8), respectively; and*

22 *(4) by inserting after paragraph (5) the fol-*
23 *lowing:*

24 *“(6) measures for an annual report to the Ad-*
25 *ministrator, in such form as the Administrator deter-*
26 *mines appropriate, on the occurrence, nature, loca-*

1 *tion, pollutants involved, and extent of any exceeding*
2 *of applicable water quality standards for pathogens*
3 *and pathogen indicators;”.*

4 **SEC. 7. CONTENT OF STATE AND LOCAL PROGRAMS.**

5 *Section 406(c) of the Federal Water Pollution Control*
6 *Act (33 U.S.C. 1346(c)) is amended—*

7 *(1) by striking “and” at the end of paragraph*
8 *(7) (as redesignated by section 6(3) of this Act);*

9 *(2) by striking the period at the end of para-*
10 *graph (8) (as redesignated by section 6(3) of this Act)*
11 *and inserting a semicolon; and*

12 *(3) by adding at the end the following:*

13 *“(9) a publicly accessible and searchable global*
14 *information system database with information up-*
15 *dated within 24 hours of its availability, organized*
16 *by beach or similar point of access and with defined*
17 *standards, sampling plans, monitoring protocols,*
18 *sampling results, and number and cause of closures*
19 *and advisory days;*

20 *“(10) measures for the immediate posting of*
21 *signs at beaches or similar points of access that are*
22 *sufficient to give public notice following the results of*
23 *any water quality sample that demonstrates an ex-*
24 *ceeding of applicable water quality standards for*
25 *pathogens and pathogen indicators for the coastal*

1 *recreation waters adjacent to such beaches or similar*
2 *points of access; and*

3 “(11) measures to ensure that closures or
4 *advisories are made or issued within 24 hours after*
5 *the State government determines that any coastal*
6 *recreation waters in the State are not meeting appli-*
7 *cable water quality standards for pathogens and*
8 *pathogen indicators.”.*

9 **SEC. 8. COMPLIANCE REVIEW.**

10 *Section 406(h) of the Federal Water Pollution Control*
11 *Act (33 U.S.C. 1346(h)) is amended—*

12 (1) *by redesignating paragraphs (1) and (2) as*
13 *subparagraphs (A) and (B), respectively;*

14 (2) *by moving such subparagraphs 2 ems to the*
15 *right;*

16 (3) *by striking “In the” and inserting the fol-*
17 *lowing:*

18 “(1) *IN GENERAL.—In the*”; and

19 (4) *by adding at the end the following:*

20 “(2) *COMPLIANCE REVIEW.—On or before July*
21 *31 of each calendar year beginning after the date of*
22 *enactment of this paragraph, the Administrator*
23 *shall—*

24 “(A) *prepare a written assessment of com-*
25 *pliance with all statutory and regulatory re-*

1 *quirements of this section for each State and*
2 *local government and of compliance with condi-*
3 *tions of each grant made under this section to a*
4 *State or local government;*

5 *“(B) notify the State or local government of*
6 *such assessment; and*

7 *“(C) make each of the assessments available*
8 *to the public in a searchable database on or be-*
9 *fore December 31 of such calendar year.*

10 *“(3) CORRECTIVE ACTION.—Any State or local*
11 *government that the Administrator notifies under*
12 *paragraph (2) that it is not in compliance with any*
13 *requirement or grant condition described in para-*
14 *graph (2) shall take such action as may be necessary*
15 *to comply with such requirement or condition within*
16 *one year of the date of the notification. If the State*
17 *or local government is not in compliance with such*
18 *requirement or condition within one year of such*
19 *date, any grants made under subsection (b) to the*
20 *State or local government, after the last day of such*
21 *one-year period and while the State or local govern-*
22 *ment is not in compliance with all requirements and*
23 *grant conditions described in paragraph (2), shall*
24 *have a Federal share of not to exceed 50 percent.*

1 “(4) *GAO REVIEW.*—Not later than December 31
2 of the third calendar year beginning after the date of
3 enactment of this paragraph, the Comptroller General
4 shall conduct a review of the activities of the Admin-
5 istrator under paragraphs (2) and (3) during the
6 first and second calendar years beginning after such
7 date of enactment and submit to Congress a report on
8 the results of such review.”.

9 **SEC. 9. STUDY OF GRANT DISTRIBUTION FORMULA.**

10 (a) *STUDY.*—Not later than 30 days after the date of
11 enactment of this Act, the Administrator of the Environ-
12 mental Protection Agency shall commence a study of the
13 formula for the distribution of grants under section 406 of
14 the Federal Water Pollution Control Act (33 U.S.C. 1346)
15 for the purpose of identifying potential revisions of such
16 formula.

17 (b) *CONTENTS.*—In conducting the study, the Admin-
18 istrator shall consider the base cost to States of developing
19 and maintaining water quality monitoring and notifica-
20 tion programs, the States’ varied beach monitoring and no-
21 tification needs, including beach mileage, beach usage, and
22 length of beach season, and other factors that the Adminis-
23 trator determines to be appropriate.

1 (c) *CONSULTATION.*—*In conducting the study, the Ad-*
2 *ministrator shall consult with appropriate Federal, State,*
3 *and local agencies.*

4 (d) *REPORT.*—*Not later than 12 months after the date*
5 *of enactment of this Act, the Administrator shall submit*
6 *to the Committee on Transportation and Infrastructure of*
7 *the House of Representatives and the Committee on Envi-*
8 *ronment and Public Works of the Senate a report on the*
9 *results of the study, including any recommendation for revi-*
10 *sion of the distribution formula referred to in subsection*
11 *(a).*

12 **SEC. 10. PUBLICATION OF COASTAL RECREATION WATERS**
13 **PATHOGEN LIST.**

14 *Section 304(a)(9) of the Federal Water Pollution Con-*
15 *trol Act (33 U.S.C. 1314(a)(9)) is amended by adding at*
16 *the end the following:*

17 “(C) *PUBLICATION OF PATHOGEN AND*
18 *PATHOGEN INDICATOR LIST.*—*Upon publication*
19 *of the new or revised water quality criteria*
20 *under subparagraph (A), the Administrator shall*
21 *publish in the Federal Register a list of all*
22 *pathogens and pathogen indicators studied under*
23 *section 104(v).”.*

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